

**Local 101, Allied Workers (Tonn and Blank, Inc.)
and Northwestern Indiana Building and Con-
struction Trades Council. Case 13-CB-9579**

April 23, 1982

DECISION AND ORDER

**BY CHAIRMAN VAN DE WATER AND
MEMBERS JENKINS AND ZIMMERMAN**

Upon a charge filed on July 7, 1981, by Northwestern Indiana Building and Construction Trades Council, herein called the Charging Party, and duly served on Local 101, Allied Workers, herein called Respondent, the General Counsel of the National Labor Relations Board, by the Regional Director for Region 13, issued a complaint and notice of hearing on July 28, 1981, against Respondent alleging that Respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8(b)(1)(A) and Section 2(6) and (7) of the National Labor Relations Act, as amended. Copies of the charge and complaint and notice of hearing before an administrative law judge were duly served on the parties to this proceeding. Respondent failed to file an answer to the complaint.

On November 6, 1981, counsel for the General Counsel filed directly with the Board a Motion for Summary Judgment. Subsequently, on November 12, 1981, the Board issued an order transferring the proceeding to the Board and a Notice To Show Cause why the General Counsel's Motion for Summary Judgment should not be granted. Respondent did not file a response to the Notice To Show Cause and therefore the allegations of the Motion for Summary Judgment stand uncontroverted.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Upon the entire record in this proceeding, the Board makes the following:

Ruling on the Motion for Summary Judgment

Section 102.20 of the Board's Rules and Regulations provides:

The respondent shall, within 10 days from the service of the complaint, file an answer thereto. The respondent shall specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. All allegations in the complaint, if no answer is filed, or any allegation in the complaint not specifically denied or explained in an answer

filed, unless the respondent shall state in the answer that he is without knowledge, shall be deemed to be admitted to be true and shall be so found by the Board, unless good cause to the contrary is shown.

The complaint and notice of hearing served on Respondent specifically states that, unless an answer to the complaint is filed within 10 days of service thereof, "all of the allegations in the complaint shall be deemed to be admitted to be true and may be so found by the Board." Further, according to uncontroverted allegations of the Motion for Summary Judgment, by letters served on Respondent by certified mail on October 5, 1981, attached to the motion as Exhibits C and D, Respondent was informed that unless an answer to the complaint and notice of hearing was received in the Regional Office by close of business on October 13, 1981, a Motion for Summary Judgment would be filed against Respondent. No answer to the complaint had been received by the date of the General Counsel's Motion for Summary Judgment and Respondent has failed to file a response to the Notice To Show Cause.

Accordingly, under the rule set forth above, no good cause having been shown for the failure to file a timely answer, the allegations of the complaint are deemed admitted and are found to be true, and we grant the General Counsel's Motion for Summary Judgment.

On the basis of the entire record, the Board makes the following:

FINDINGS OF FACT

I. JURISDICTION

Tonn and Blank, Inc., is, and has been at all times material herein, engaged as a general contractor in construction operations in a number of States, including a construction site at 5th Street in Gary, Indiana, known as the West Gary Redevelopment Project (herein referred to as the West Gary site). Tonn and Blank, Inc., maintains its principal office and place of business at 126 East 5th Street, Michigan City, Indiana. During the calendar or fiscal year preceding issuance of the complaint, a representative period, Tonn and Blank, Inc., in the course and conduct of its business operations, purchased and received at construction sites in Indiana goods and materials valued in excess of \$50,000 directly from points outside the State of Indiana.

We find, on the basis of the foregoing, that Tonn and Blank, Inc., is, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(6) and (7) of the

Act, and that it will effectuate the policies of the Act to assert jurisdiction herein.

II. THE LABOR ORGANIZATION INVOLVED

Local 101, Allied Workers, is, and has been at all times material herein, a labor organization within the meaning of Section 2(5) of the Act.

III. THE UNFAIR LABOR PRACTICES

Respondent restrained and coerced employees in the exercise of the rights guaranteed them by Section 7 of the Act by engaging in the following acts and conduct, all of which occurred at or in the vicinity of the West Gary site while Respondent was engaged in demonstrating and picketing.

1. On or about June 9, 1981, Respondent, by its representatives and agents, including Leonard Samuels and Walter Dickson, told employees that they were going to throw them off the scaffolds they were working on, made threatening gestures toward employees, and threatened to assault employees.

2. On or about June 9, 1981, Respondent, by its representatives and agents, including Leonard Samuels and Walter Dickson, in the presence of employees told a supervisor from Wm. Hayden Contractor, the masonry subcontractor, that they would blow his head off.

3. On or about June 9, 1981, Respondent, by an agent, openly displayed a pistol in the presence of employees and threatened a supervisor from Wm. Hayden Contractor.

4. On or about June 9, 1981, Respondent, by an agent, chased an employee down an alley.

5. On or about June 9, 1981, Respondent, by its agents and representatives, threatened to kill employees.

6. On or about June 9, 1981, Respondent, by its agents and representatives, told employees to stop work and leave town.

7. From on or about June 15 to on or about July 2, 1981, Respondent, by its agents and representatives, stated to employees they were going to kill them.

8. From on or about June 15 to on or about June 29, 1981, Respondent, by its agents and representatives, openly displayed pistols in the presence of employees.

9. On or about June 29, 1981, Respondent, by an agent, openly displayed a pistol in the presence of employees.

10. On or about June 26, 1981, Respondent, by its agents and representatives, ordered an employee to break a machine he was operating and join them in picketing.

11. On or about June 26, 1981, Respondent, by its agent and representative Leonard Samuels, told an employee that employees who were working would be assaulted.

12. On or about June 26, 1981, Respondent, by its agent and representative Leonard Samuels and by other agents, told employees who were working that they were going to shoot and kill them.

13. On or about June 29, 1981, Respondent, by an agent and in the presence of Respondent's agent Leonard Samuels, told an employee that before lunch they would shoot some of the employees.

14. On or about June 30, 1981, Respondent, by its agents and representatives, in the presence of Respondent's agents Leonard Samuels and Walter Dickson, threatened to assault various employees.

15. On or about June 30, 1981, Respondent, by its agent and representative Thomas Garrett, in the presence of employees, threatened reprisals against employees who were working.

16. On or about June 30, 1981, Respondent, by its agents and representatives, threatened to shoot an employee and burn down the building.

17. On or about June 30, 1981, Respondent, by its agents and representatives, threatened an employee that he would be shot.

18. On or about June 30, 1981, Respondent, by its agents and representatives, in the presence of employees, threatened to kill a supervisor from Tonn and Blank, Inc.

Accordingly, we find that by the aforesaid conduct Respondent has restrained and coerced employees in the exercise of the rights guaranteed them under Section 7 of the Act, and by such conduct Respondent has engaged in unfair labor practices within the meaning of Section 8(b)(1)(A) and Section 2(6) and (7) of the Act.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of Respondent set forth in section III, above, occurring in connection with the Employer's operations described in section I, above, have a close, intimate, and substantial relationship to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE REMEDY

Having found that Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(b)(1)(A) of the Act, we shall order that it cease and desist therefrom and that it take certain affirmative action as set forth below designed to effectuate the purposes and policies of

the Act. Further, in light of the extensive and serious nature of the unfair labor practices we have found, we shall order a broad cease-and-desist order in this proceeding.¹

The Board, upon the basis of the following facts and the entire record, makes the following:

CONCLUSIONS OF LAW

1. Tonn and Blank, Inc., is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. Local 101, Allied Workers, is a labor organization within the meaning of Section 2(5) of the Act.

3. By the acts described in section III, above, Respondent has restrained and coerced employees in the exercise of the rights guaranteed them in Section 7 of the Act, and thereby has engaged in unfair labor practices within the meaning of Section 8(b)(1)(A) of the Act.

4. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Local 101, Allied Workers, Gary, Indiana, its officers, agents, and representatives, including Leonard Samuels and Walter Dickson, shall:

1. Cease and desist from

(a) Restraining and coercing employees in the exercise of the rights guaranteed them under Section 7 of the Act by threatening bodily harm to employees and supervisors, by threatening to shoot and kill employees and supervisors, by threatening reprisals against employees, by openly displaying pistols, by chasing employees in alleys, by ordering employees to break machines and join picketing and to stop work and leave town, and by threatening to burn a building.

(b) In any other manner restraining or coercing employees in the exercise of their Section 7 rights.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

¹ We shall include in this Order the names of Leonard Samuels and Walter Dickson who were alleged in the complaint as agents of Respondent, and whom we have found engaged in numerous of the unfair labor practices in this proceeding.

(a) Post at its office and meeting halls copies of the attached notice marked "Appendix."² Copies of said notice, on forms provided by the Regional Director for Region 13, after being duly signed by Respondent's representatives, shall be posted by Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to members are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(b) Mail to the Regional Director for Region 13 signed copies of said notice for posting, if Tonn and Blank, Inc., is willing, at its Gary, Indiana, location, in places where notices to employees are customarily posted. Copies of said notice, on forms provided by the Regional Director for Region 13, after having been signed by Respondent's representatives, shall be forthwith returned to the Regional Director for posting by Tonn and Blank, Inc.

(c) Notify the Regional Director for Region 13, in writing, within 20 days from the date of this Order, what steps have been taken to comply herewith.

² In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO MEMBERS POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

WE WILL NOT restrain or coerce employees in the exercise of the rights guaranteed them under Section 7 of the Act by threatening bodily harm to employees and supervisors, by threatening to shoot and kill employees and supervisors, by threatening reprisals against employees, by openly displaying pistols, by chasing employees in alleys, by ordering employees to break machines and join picketing and to stop work and leave town, and by threatening to burn a building.

WE WILL NOT in any other manner restrain or coerce employees in the exercise of the rights guaranteed them by Section 7.

LOCAL 101, ALLIED WORKERS